

CONWAY, LONDREGAN, SHEEHAN & MONACO, P.C.
ATTORNEYS AT LAW
38 HUNTINGTON ST. P.O. BOX 1351 NEW LONDON, CT 06320 (860) 447-3171
JURIS # 10792

RETURN DATE: AUGUST 29, 2017 : SUPERIOR COURT
CITY OF NEW LONDON and ZONING
OFFICER FOR THE CITY
OF NEW LONDON : J.D. OF NEW LONDON
V. : at NEW LONDON
NEW LONDON PHOENIX, LLC : AUGUST 4, 2017

VERIFIED COMPLAINT

1. The plaintiff, City of New London, is a duly formed municipality pursuant to the laws of the State of Connecticut and as such is authorized to, and has, enacted zoning regulations.

2. The plaintiff, Michelle Johnson Scovish, is the duly authorized Zoning Official for the City of New London (hereinafter "ZO") and by statute and regulation has jurisdiction, in addition to other remedies, to institute an action or proceeding to prevent the unlawful use of premises in the City of New London and to restrain, correct or abate violations of the City's zoning regulations.

3. In bringing this action the plaintiffs are acting on behalf of the interests of all property owners within the City of New London to enforce their right to require conformity with the regulations, as the quid pro quo for their own submission to the restrictions on their property.

4. The defendant, New London Phoenix, LLC, occupies, and/or maintains an entire certain tract or parcel of land and/or buildings located at and known as 78 State Street, New London, Connecticut (hereinafter referred to as "subject property").

5. The subject property is located within a CBD-1 Zone (Central Business District – One) as defined by the zoning regulations for the City of New London (hereinafter “zoning regulations”).

6. On or about March 8, 2017, the plaintiff ZO received credible evidence that the defendant was utilizing the subject property as a storage facility for items that are for sale at other retail business locations, in violation of the zoning regulations.

7. On or about April 17, 2017, the plaintiff ZO issued a Notice of Violation to the defendant regarding the illegal storage of items and informing the defendant of the steps necessary to bring the subject property into compliance.

8. Several times subsequent to April 17, 2017 Notice of Violation, the plaintiff ZO verified by visual inspection that the defendant continued to permit storage of personal property at the subject property, without any approvals or revised zoning permits being sought or issued in violation of the zoning regulations.

9. On or about May 30, 2017, the plaintiff ZO issued a cease and desist order to the defendant ordering it to cease all activities identified in Paragraphs 6 and 8 herein at the subject property. A copy of said cease and desist order is attached hereto and marked as “Exhibit A.”

10. The defendant has not applied to the City of New London Zoning Board of Appeals for a hearing on this matter and the time for said appeal has expired.

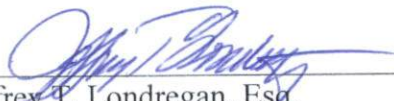
11. Despite the cease and desist order and other warnings, the defendant did not seek any necessary approvals or take any remedial action and continues to be in violation of the zoning regulations, as well as in violation of Connecticut General Statute §8-12.

12. The plaintiffs have no adequate remedy at law to compel the defendant to comply with the zoning regulations of the City of New London.

WHEREFORE, the plaintiffs pray for the following relief:

1. An injunction to enjoin the defendant from using the subject property as a storage facility.
2. Attorney's fees and costs for bringing the present action pursuant to General Statute §8-12.
3. Penalties and damages in accordance with General Statute §8-12.
4. Such other relief as the court may deem appropriate.

THE PLAINTIFFS

By 
Jeffrey T. Londregan, Esq.
Conway, Londregan, Sheehan & Monaco, P.C.
Their Attorney

OATH VERIFICATION

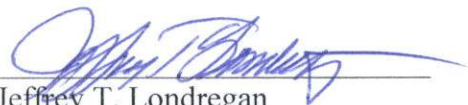
STATE OF CONNECTICUT)

)

SS: NEW LONDON

COUNTY OF NEW LONDON)

Before me personally appeared Michelle Johnson Scovish and made oath to the truth of the matter contained in the foregoing Complaint, and in the attached affidavit.


Jeffrey T. Londregan
Commissioner of the Superior Court

CONWAY, LONDREGAN, SHEEHAN & MONACO, P.C.

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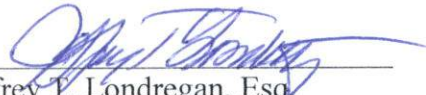
: AUGUST 4, 2017

STATEMENT RE AMOUNT IN DEMAND

The plaintiffs hereby state that they are claiming injunctive relief in addition to monetary damages.

THE PLAINTIFFS

By



Jeffrey P. Londregan, Esq.

Conway, Londregan, Sheehan & Monaco, P.C.

Their Attorney



CITY OF NEW LONDON
OFFICE OF DEVELOPMENT & PLANNING
PLANNING • ZONING • WETLANDS DIVISION

181 State Street New London, CT 06320 • Phone (860) 437-6379

CERTIFIED MAIL/RETURN RECEIPT
ARTICLE #7011 2000 0000 9075 2505

May 30, 2017

New London Phoenix Inc.
c/o Evan Blum
216 East 125th Street
New York, NY 10035

RE: Violation of Approved Zoning Permit for Retail Space
78 State Street New London, CT (Map G 12/Block 142/Lot 8) (CBD-1 Zone District)

Dear Mr. Blum:

-CEASE & DESIST ORDER-

On March 8, 2017, March 21, 2017 and April 17, 2017 I contacted by mail to advise you of Zoning violations at your property referenced above. This property, **#78 State Street (Map G12/Block 142/Lot 8) New London Connecticut**, is located in the **CBD -1 Zone (Central Business District – One)**.

My letters to you outlined that the current condition of your building at 78 State Street, i.e. a storage facility for items that you sell at your other retail business locations in Middletown, Connecticut and New York City is not a permitted use. It was explained that this use is not in compliance with the Zoning Permit granted to you by my predecessor, Susan Brant, on September 9, 2004, nor is it a permitted use in the Central Business District – One (CBD-1). This point was underscored in subsequent letters to you dated March 21, 2017 and April 17, 2017. To date I have received no additional contact from you with a timeline for either removing the items being stored at the subject property or operating the retail store as outlined in your September 9, 2004 Zoning Permit and approved by this office.

Storage facilities are not permitted in the CBD-1 Zoning District under the current zoning regulations, nor were they permitted when the zoning permit was granted to you. Any storage of stock, artifacts, equipment etc. was permitted as an accessory use to the principal retail use at #78 State Street New London, CT.

The continued use of this building, as storage only without the principal use of a retail storefront, is in violation of the following sections of the City of New London's Zoning Regulations:

SECTION	DESCRIPTION
530.1	Central Business District- One
910	Zoning Permit

CEASE & DESIST ORDER
NEW LONDON PHOENIX INC. (C/O E. BLUM)
78 STATE STREET NEW LONDON, CT
MAY 30, 2017
PAGE 2 OF 2

The purpose of this letter is to bring this matter to your attention and to take the necessary corrective actions.

The above enumerated items are zoning violations only which must be abated within ten (10) days of receipt of this letter. A lack of response to this notice will lead to further enforcement action & possible legal fees/fines.

If you feel that I have issued this Cease & Desist Order in error, your recourse is to take an appeal to the Zoning Board of Appeals to reverse any order, requirement, or decision of the Zoning Official. This appeal must be filed within thirty (30) days after receipt of this order.

Forms to make an appeal can be obtained at the Office of Development and Planning, at the City Hall 181 State Street, New London, Connecticut.

Authority:	CTGS 8-12	Zoning Regulations Section 960
Penalty:	CTGS 8-12	Zoning Regulations Section 990
Appeal:	CTCS 8-7	Zoning Regulations Section 1000

Section 8-12 of the Connecticut General Statutes provides in part that a person who violates the Zoning Regulations shall be fined not less than Ten and 00/100 (\$10.00) and not more than One Hundred and 00/100 (\$100.00) Dollars for each day that such violation continues, but if the offense is willful, the person convicted shall be fined not less than One Hundred and 00/100 (\$100.00) and not more than Two Hundred Fifty and 00/100 (\$250.00) Dollars for each day that such violation continues, or imprisoned not more than ten (10) days for each day such violation continues or both.

If any person served with an Order to discontinue any such violation fails to comply with such order within ten (10) days shall be subject to a civil penalty not to exceed two thousand five hundred and 00/100 (\$2,500.00) dollars.

Thank you for your attention to this matter. If you have any questions or need clarification regarding this letter or if you feel an error has been made, I may be reached Monday through Friday from 8:30 a.m. to 4:00 p.m. at (860) 437-6381.

Sincerely,



Michelle Johnson Scovish, CZEO
Assistant Planner/Zoning Official

cc: Tammy Daugherty – Office of Development & Planning
Jeffrey T. Londregan – Director of Law
Paul Grills – Risk Manager
Vernon Skau – Fire Marshal
Kirk Kripas-Building Official